

1 HB143
2 123074-4
3 By Representatives Baker, McMillan, Shiver, Jackson, Faust,
4 Jones, Beech, Davis, Harper and Lee
5 RFD: County and Municipal Government
6 First Read: 03-MAR-11

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ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

To amend Section 22-27-48, Code of Alabama 1975, relating to local governing body review of a proposal related to solid waste disposal management plans; to require a local governing body to affirmatively approve a proposal or an application for a new facility within a certain period of time, or the proposal or application would be deemed denied.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-27-48, Code of Alabama 1975, is amended to read as follows:

"§22-27-48.

"(a) In addition to any regulatory bodies, the governing body of a county or municipality has a responsibility for and the authority to assure the proper management of solid wastes generated within its jurisdiction in accord with its solid waste management plan. A governing body may assign territories and approve or disapprove disposal sites in its jurisdiction in accord with the plan approved for its jurisdiction. Such approval or disapproval of services or activities described in the local plan shall be in addition to any other approvals required from other regulatory authorities

1 and shall be made prior to any other approvals necessary for
2 the provision of such services, the development of a proposed
3 facility or the modification of permits for existing
4 facilities. The department may not consider an application for
5 a new or modified permit for a facility unless such
6 application has received approval by the affected unit of
7 local government having an approved plan.

8 "In determining whether to recommend approval of the
9 proposed issuance of or modification of a new or existing
10 solid waste management site, the governing body shall consider
11 each of the following:

12 "(1) The consistency of the proposal with the
13 jurisdiction's solid waste management need as identified in
14 its plan;

15 "(2) The relationship of the proposal to local
16 planned or existing development or the absence thereof, to
17 major transportation arteries and to existing state primary
18 and secondary roads;

19 "(3) The location of a proposed facility in
20 relationship to existing industries in the state that generate
21 large volumes of solid waste, or the relationship to the areas
22 projected for development of industries that will generate
23 solid waste;

24 "(4) Costs and availability of public services,
25 facilities and improvements required to support a proposed
26 facility and protect public health, safety and the
27 environment;

1 "(5) The impact of a proposed facility on public
2 safety and provisions made to minimize the impact on public
3 health and safety; and

4 "(6) The social and economic impacts of a proposed
5 facility on the affected community, including changes in
6 property values, and social or community perception.

7 "The application of the plan for local approval
8 shall be accompanied by an application fee payable to the
9 local governing body in an amount equal to 20 percent of the
10 application or permit fee required by the department, but
11 local approval shall not apply to simple renewals of a permit
12 which is to be otherwise unchanged. Further, there shall be no
13 requirement for local review and approval of permit
14 modifications for the limited purposes of changing liner and
15 leachate collection design, changes in waste streams from
16 within the facility's designated service area, changes in
17 sequence of fill, changes to incorporate new technology and
18 changes intended to bring a facility into compliance with
19 statutes and regulations. A renewed application for local
20 approval submitted within 18 months of an application being
21 denied or rejected by the local governing body shall be
22 accompanied by an application fee payable to the local
23 governing body in an amount equal to 50 percent of the
24 application or permit fee required by the department.

25 "Any determination by the local governing body of
26 the proposed issuance of or modification of a permit for a new
27 or existing solid waste management site or the proposal to

1 contract for any services described in the solid waste
2 management plan, shall be made in a public meeting only after
3 public notice of such application or proposal and an
4 opportunity for public comment is provided.

5 "In providing public notice of any application or
6 proposal regarding any services described in the solid waste
7 management plan, the local government shall at a minimum hold
8 at least one public hearing thereon, notice of the time and
9 place of which shall be given by one publication in a
10 newspaper of general circulation in the municipality and in
11 the official gazette, if any, of the jurisdiction.

12 Furthermore, such notice shall be given at least 30 days but
13 not more than 45 days prior to the proposed date of the
14 hearing. Each notice published in compliance with this section
15 shall contain at a minimum a description of the proposed
16 action to be considered, its relevance to and consistency with
17 the local solid waste management plan and shall identify a
18 contact person from whom interested persons can obtain
19 additional information and can review copies of both the local
20 plan and the application or proposal to be considered. All
21 pertinent documents shall be available for inspection during
22 normal business hours at a location readily accessible to the
23 public. ~~Within~~ Except as provided herein for an application or
24 proposal for a new facility, within 90 days of receiving an
25 application or proposal, the local governing body shall either
26 approve the application or deny the application setting forth
27 the reasons therefor. The failure of the local governing body

1 to ~~act on~~ deny the proposal within 90 days of receiving the
2 application shall constitute approval by the local governing
3 body. Within 90 days of receiving an application or proposal
4 for a new facility, the local governing body shall either
5 approve the application or deny the application setting forth
6 the reasons therefor. The failure of the local governing body
7 to approve the application or proposal for a new facility
8 within 90 days of receiving the application or proposal shall
9 constitute denial by the local governing body.

10 "(b) Following local review and approval of any
11 proposal regarding services or activities described in the
12 local solid waste management plan, the applicant shall obtain
13 a statement of consistency from the regional planning and
14 development commission. Therein, the commission shall evaluate
15 the proposal using the provisions of the current regional
16 solid waste management needs assessment. In particular, the
17 regional commission shall evaluate the proposal as it relates
18 to available existing capacity within the region and the
19 projected lifetime of such capacity. The evaluation shall also
20 identify any proposed capacity which is in excess of expected
21 regional needs. No statement of consistency shall be required
22 for contracts exclusively for the collection or transportation
23 of solid wastes.

24 "(c) Plans or local approval required by this
25 section shall not apply to industrial landfills receiving
26 wastes generated on site only or by the permittee."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 03-MAR-11

Read for the second time and placed
on the calendar 1 amendment 24-MAR-11

Read for the third time and passed
as amended..... 19-APR-11

Yeas 95, Nays 0, Abstains 0

Greg Pappas
Clerk